

**THE HARMAN FIRM, PC**

ATTORNEYS &amp; COUNSELORS AT LAW

200 WEST 57<sup>th</sup> STREET, SUITE 900, NEW YORK, NEW YORK 10019

TELEPHONE 212 423 2600 FAX 212 202 3926

WWW.THEHARMANFIRM.COM

June 27, 2013

**VIA FACSIMILE (212) 805-7990**

Hon. James L. Cott

United States District Court for the

Southern District of New York

500 Pearl Street, Room 1360

New York, New York 10007

USDC SDNY  
DOCUMENT  
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**Re: *Hernandez et al. v. The Fresh Diet et al.*,  
12 CV 4339 (ALC)(JLC)**

Dear Judge Cott:

We represent the Plaintiffs in the above-referenced matter.

As you know, the recent settlement conference, which the parties participated in, with party representatives present, did not result in the resolution of this matter. As a result, the parties are continuing to litigate this matter.

Plaintiffs previously filed a Fed. R. Civ. P. 23 Motion for Class Action Certification, and Defendants submitted papers in opposition on June 14, 2013. Plaintiffs' reply papers are currently due on June 28, 2013. However, we intend to seek an extension of time to reply from Judge Carter to July 9, 2013. Defendants have indicated that they have no objection to this request.

Most importantly, the preparations for the settlement conference, and the class action motion practice, have resulted in a situation where neither party has yet taken a single deposition, even though several depositions were noticed some time ago.

The Plaintiffs intend to take depositions as soon as possible, within the next few weeks. The Plaintiffs also intend to make their witnesses available to the Defendants for depositions over the next several weeks.

In light of this situation, the Plaintiffs request a ninety-day (90-day) extension of the deadline for non-expert discovery, and a ninety-day (90-day) extension of all subsequent deadlines (*i.e.*, expert disclosure, expert depositions, pretrial motions).

Defendants have advised Plaintiffs that they consent to this request.

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We thank the Court for its time and attention to this matter.

Respectfully submitted,  
THE HARMAN FIRM, PC

s/  
Peter J. Andrews [PA-3295]

cc: Jeffery Meyer, Esq. (via email, [jmeyer@kdvlaw.com](mailto:jmeyer@kdvlaw.com))  
Yale Pollack, Esq. (via email, [ypollack@kdvlaw.com](mailto:ypollack@kdvlaw.com))  
Walker G. Harman, Jr. (via email)

The request to ~~extend~~ the fact discovery  
deadline is GRANTED. The new  
deadline will be September 25, 2013.  
Absent good cause shown, the Court  
will not extend this deadline again.  
The Court will hold a status  
conference in this case on September  
27 at 10 a.m. in courtroom 21-D  
to discuss further discovery  
deadlines and the possibility of  
renewed settlement discussions.

SO ORDERED

Jan L. Cott  
U.S. M. J. 6/27/13